



# THE ATTORNEY GENERAL OF TEXAS

GERALD C. MANN

AUSTIN 11, TEXAS

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WILL WILSON  
ATTORNEY GENERAL

Honorable Charley Lockhart  
State Treasurer  
Austin, Texas

Dear Sir:

Attention: Jesse James

Opinion No. 0-1776

Re: Article 2530 Vernon's  
Civil Statutes -- State  
depository -- custodian  
bank for depository  
securities -- Federal  
Reserve Bank.

We have your letter of December 16, 1939, asking for the opinion of this department as to whether the Federal Reserve Bank of Dallas is authorized or permitted by law to act as custodian for the securities to be deposited by a depository bank, under Article 2530 Vernon's Civil Statutes.

Article 2530 provides:

"In the event the state depository, as designated in the preceding Article, shall elect to deposit said pledged securities, above mentioned, with the State Treasurer, the said securities shall be delivered to the Treasurer and receipted for by him, and retained by him in the vault of the state treasury. Provided, however, that such bank so designated as depository shall have the option, instead of depositing said pledged securities with the State Treasurer, of depositing same with another state or national bank situated in the State, subject to the approval of the Board; said securities to be held in trust by said custodian bank to secure funds deposited by the State Treasurer in the depository bank."

It is the opinion of this department that a Federal Reserve Bank situated in this State is an eligible custodian of securities under the statute above quoted. The statute makes no attempt to prescribe the qualifications of such custodian other than it must be a "state bank" or a "national bank situated in the State" and be subject to the

approval of the Board. This classification is general but comprehensive. There are technically different kinds of State banks-- there is the "state bank", the "state bank and trust company", "savings bank", and "Morris Plan bank" (so called) organized under the State law, and there are, on the other hand, the ordinary associations known as national banks and Federal Reserve banks, organized under the acts of the Congress. The Legislature did not use the words state banks and national banks in any restrictive sense but in the general sense as including, in the first place, all institutions organized as banks under state law, and, in the next place, all banks organized under the laws of the United States, having authority under the organic law to perform such functions as holding deposits or pledges of securities, such as that under consideration.

A "national bank", therefore, under the provisions of Article 2530 means a bank organized under the laws of the United States. This construction is in keeping with the various articles or sections of the U.S. code, especially sections 37, 90, 221, and 391. (U.S.C.A.)

Very truly yours

ATTORNEY GENERAL OF TEXAS

S/ Ocie Speer

By

Ocie Speer  
Assistant

OS-MR/cg

APPROVED DEC. 21, 1939  
s/ Gerald C. Mann  
ATTORNEY GENERAL OF TEXAS